

Bingham McCutchen LLP
WALTER M. STELLA (SBN 148215)
walter.stella@bingham.com
BRYAN E. DALEY (SBN 227517)
bryan.daley@bingham.com
Three Embarcadero Center
San Francisco, CA 94111
Telephone: 415.393.2000
Facsimile: 415.393.2286

Attorneys for Defendants
UBS/Paine Webber, UBS Paine Webber Partner's Plus,
UBS Financial Services, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Alva Gene Thaning,

Plaintiff,

v.

UBS/Paine Webber, UBS Paine Webber Partner's
Plus, UBS Financial Services, Inc.,

Defendants.

No. 07-5528 JL

DECLARATION OF WALTER M.
STELLA IN SUPPORT OF
DEFENDANTS' *EX PARTE*
APPLICATION FOR AN EXTENSION
OF TIME TO ANSWER OR
OTHERWISE RESPOND TO
PLAINTIFF'S COMPLAINT
(Federal Rule of Civil Procedure 6(b)(1))

A/72325157.1

1 Walter M. Stella declares:

2 1. I am a member of the firm of Bingham McCutchen LLP, counsel for
3 defendants UBS/Paine Webber, UBS Paine Webber Partner's Plus, and UBS Financial Services,
4 Inc (collectively, "Defendants") in this action. I have personal knowledge of the facts set forth in
5 this Declaration and would be competent to testify to them if called upon to do so.

6 2. Defendants' deadline to answer or otherwise respond to Plaintiff's
7 Complaint is currently November 27, 2007. Through this application, Defendants seek a 45-day
8 extension of that deadline to January 11, 2008. No other previous time modifications have been
9 made in this case.

10 3. I have tried repeatedly to reach Plaintiff's counsel to obtain his agreement
11 to a stipulated extension, including phone calls on November 19 and November 20. On both
12 days, I left answering machine messages that have not yet been returned, perhaps because of the
13 forthcoming Thanksgiving holiday. Most recently, I faxed Plaintiff's counsel a letter on
14 November 20 asking that he contact me regarding Defendants' requested extension and advising
15 him that Defendants intended to make this application *ex parte* if I did not hear from him by the
16 close of business on Wednesday, November 21. Attached as Exhibit A is a true and correct copy
17 of that letter.

18 4. At the time I signed this Declaration, I had still not received a response
19 from Plaintiff's counsel regarding Defendants' proposed extension.

20 5. The Thanksgiving holiday and weekend from November 22-25 makes it
21 necessary for Defendants to bring this application without any further delay, so that the Court
22 will have some time to consider this application in advance of Defendants' current deadline of
23 November 27.

24 6. The extension sought is essential for Defendants to properly prepare their
25 response to the Complaint. The Complaint pleads facts occurring over a 20-year period and six
26 causes of action under California common law and the Employee Retirement Income Security
27 Act (ERISA). Preparing a thorough and complete response entails substantial factual
28 investigation and legal analysis. Further, Defendants anticipate that extra time will be needed to

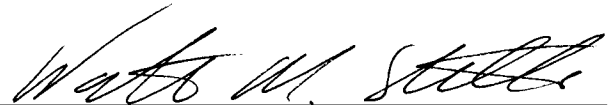
A/72325157.1

1 coordinate and prepare a response due to vacation days and scheduling conflicts that inevitably
2 occur during Thanksgiving and the winter holiday season.

3 7. The only item on the Court's calendar for this matter is the parties' Case
4 Management Conference set for February 6, 2008, which is weeks after the extended deadline
5 sought by this application.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed this 21st day of November, 2007 in San Francisco, California.

8
9
10 

Walter M. Stella